

STATE OF CALIFORNIA
ENVIRONMENTAL PROTECTION AGENCY
DEPARTMENT OF TOXIC SUBSTANCES CONTROL

In the Matter of:

Solar Turbines, Inc.
2200 Pacific Highway
San Diego, California 92186

ID No. CAD 008314908

Respondent.

Docket HWCA 2008-1866

CONSENT ORDER

Health and Safety Code
Section 25187

The State Department of Toxic Substances Control (Department or DTSC) and Solar Turbines, Inc. (Respondent) enter into this Consent Order and agree as follows:

1. Respondent generates and handles hazardous waste at its facility located at 2200 Pacific Highway, San Diego, California 92186 (Facility).
2. The Department conducted a border truck stop inspection of a truck transporting drums of materials generated at a facility in Mexico affiliated with Respondent's Facility at the United States Customs and Border Protection Port of Entry, Otay Mesa, California on July 17, 2008.
3. The Department alleges the following violations:
 - 3.1. Respondent violated California Code of Regulations, title 22, section 66262.60 in that on or about September 11, 2007, September 18, 2007, November 20, 2007 and July 17, 2008, Respondent imported shipments of drums labeled as containing "plasma ash scrap" and "plasma solids scrap." At least two of the drums contained a fine metal powder containing lead, copper, chromium and

nickel, and had metals levels above State regulatory threshold levels for a California hazardous waste, without complying with all of the requirements for imports of hazardous waste.

3.2. Respondent violated California Health and Safety Code section 25163, subsection (a)(1) in that Respondent transferred custody of a hazardous waste to a transporter that does not hold a valid registration issued by the Department.

3.3. Respondent violated California Health and Safety Code section 25201, subsection (a) in that on or about September 11, 2007, September 18, 2007, and November 20, 2007, Respondent accepted hazardous waste without a permit or other grant of authorization from the Department.

3.4. Respondent violated Health and Safety Code section 25143.2, subsection (f)(2) in that Respondent failed to maintain adequate records to demonstrate to the satisfaction of the Department that there is a known market or disposition for the material, and that the requirements of any exemption or exclusion are met.

4. A dispute exists regarding the alleged violations.

5. The parties wish to avoid the expense of litigation.

6. Jurisdiction exists pursuant to Health and Safety Code section 25187.

7. Respondent waives any right to a hearing in this matter.

8. This Consent Order shall constitute full settlement and release of claims respecting the violations alleged above and the alleged violations specifically stated in the Summary of Violations, dated July 17, 2008, the DTSC Inspection Report, dated August 17, 2008, and DTSC's letter to Respondent, dated October 2, 2008, and the Amended Summary of Violations, dated April 7, 2010, but does not

limit the Department from taking appropriate enforcement action concerning other violations:

SCHEDULE FOR COMPLIANCE

10. Respondent shall comply with the following:

10.1.1. Respondent shall comply with all requirements for import of hazardous waste pursuant to California Code of Regulations, title 22, section 66262.60 if Respondent is importing hazardous waste into the State.

10.1.2. Respondent shall offer hazardous waste for transport within State boundaries to only those transporters holding valid registration issued by the Department pursuant to Health and Safety Code section 25163, subsection (a)(1).

10.1.3. Respondent shall only accept hazardous waste if it has received a permit or other authorization from the Department pursuant to Health and Safety Code section 25201, subsection (a)..

10.1.4. Respondent shall comply with the requirements of Health and Safety Code section 25143.2, subsection (f)(2).

10.2. Submittals: All submittals from Respondent pursuant to this Consent Order shall be sent to:

Alfredo Rios, Supervising Hazardous Substances Scientist I
Emergency Response and Enforcement Program
Department of Toxic Substances Control
9174 Sky Park Court Suite 150
San Diego CA 92123.

10.3. Communications: All approvals and decisions of the Department made regarding such submittals and notifications shall be communicated to Respondent in writing by a Branch Chief, Department of Toxic Substances Control,

or his/her designee. No informal advice, guidance, suggestions, or comments by the Department regarding reports, plans, specifications, schedules, or any other writings by Respondent shall be construed to relieve Respondent of its obligation to obtain such formal approvals as may be required.

10.4. Department Review and Approval: If the Department determines that any report, plan, schedule, or other document submitted for approval pursuant to this Consent Order fails to comply with the Order or fails to protect public health or safety or the environment, the Department may return the document to Respondent with recommended changes and a date by which Respondent must submit to the Department a revised document incorporating the recommended changes.

10.5. Compliance with Applicable Laws: Respondent shall carry out this Order in compliance with all local, State, and federal requirements, including but not limited to requirements to obtain permits and to assure worker safety.

10.6. Endangerment during Implementation: In the event that the Department determines that any circumstances or activity (whether or not pursued in compliance with this Consent Order) are creating an imminent or substantial endangerment to the health or welfare of people on the site or in the surrounding area or to the environment, the Department may order Respondent to stop further implementation for such period of time as needed to abate the endangerment. Any deadline in this Consent Order directly affected by a Stop Work Order under this section shall be extended for the term of such Stop Work Order.

10.7. Liability: Nothing in this Consent Order shall constitute or be construed as a satisfaction or release from liability for any conditions or claims

arising as a result of past, current, or future operations of Respondent, except as provided in this Consent Order. Notwithstanding compliance with the terms of this Consent Order, Respondent may be required to take further actions as are necessary to protect public health or welfare or the environment.

10.8. Site Access: Access to the Facility to ascertain compliance with this Consent Order shall be provided at all reasonable times to employees and authorized contractors or consultants of the Department. Nothing in this Consent Order is intended to limit in any way the right of entry or inspection that any agency, including DTSC, may otherwise have by operation of any law. Subject to safety and security protocols, the Department and its authorized representatives may enter and move freely about the Facility at all reasonable times for purposes including but not limited to: inspecting records, operating logs, and contracts relating to this Consent Order; reviewing the progress of Respondent in carrying out the terms of this Consent Order; and conducting such tests as the Department may deem necessary. Respondent shall permit such persons to inspect and copy non-legally privileged records, documents, and other writings, including all sampling and monitoring data pertaining to work undertaken pursuant to this Consent Order. Respondent, if it deems it appropriate, may classify certain information as proprietary, or a trade secret, and entitled to designation as confidential in accordance with State law.

10.9. Sampling, Data, and Document Availability: Subject to the conditions in 10.8, Respondent shall permit the Department and its authorized representatives to inspect and copy all non-legally privileged sampling, testing, monitoring, and other data generated by Respondent or on Respondent's behalf pertaining to work

undertaken pursuant to this Consent Order. Respondent shall allow the Department and its authorized representatives simultaneously to take duplicates of any samples collected by Respondent pursuant to this Consent Order. Respondent shall maintain a central depository of the data, reports, and other documents prepared pursuant to this Consent Order. All such data, reports, and other documents shall be preserved by Respondent for a minimum of three years after the conclusion of all activities under this Consent Order. If the Department requests that some or all of these documents be preserved for a longer period of time, Respondent shall either comply with that request, deliver the documents to the Department, or permit the Department to copy the documents prior to destruction.

10.10. Government Liabilities: The State of California shall not be liable for injuries or damages to persons or property resulting from acts or omissions by Respondent or related parties specified in paragraph 12.3, in carrying out authorized activities pursuant to this Consent Order, nor shall the State of California be held as a party to any contract entered into by Respondent or its agents in carrying out activities pursuant to this Consent Order.

10.11. Incorporation of Plans and Reports: All plans, schedules, and reports that require Department approval and are submitted by Respondent pursuant to this Consent Order are incorporated in this Consent Order upon approval by the Department.

10.12. Extension Requests: If Respondent is unable to perform any activity or submit any document within the time required under this Consent Order, the

Respondent may, prior to expiration of the time, request an extension of time in writing. The extension request shall include a justification for the delay.

10.13. Extension Approvals: If the Department determines that good cause exists for an extension, it will grant the request and specify in writing a new compliance schedule.

PAYMENTS

11. The total settlement amount is \$38,000, of which \$33,000 is penalty, and \$5,000 is compliance school credit if all conditions in Paragraph 11.1 below are fulfilled. Respondent shall pay the Department a total penalty of \$33,000 within 45 days of the effective date of this Consent Order as consideration for the settlement and release. Respondent's check shall be made payable to Department of Toxic Substances Control, shall identify the Respondent and Docket Number, as shown in the caption of this case, and shall be delivered together with the attached Payment Voucher to:

Department of Toxic Substances Control
Accounting Office
1001 I Street, 21st floor
P. O. Box 806
Sacramento, California 95812-0806.

A photocopy of the check shall be sent simultaneously to:

Alfredo Rios, Supervising Hazardous Substances Scientist I
Emergency Response and Enforcement Program
Department of Toxic Substances Control
9174 Sky Park Court Suite 150
San Diego CA 92123.

Debra Schwartz, Senior Staff Counsel
Office of Legal Affairs
Department of Toxic Substances Control
9211 Oakdale Avenue
Chatsworth, California 91311.]

If Respondent fails to make payment as provided above, Respondent agrees to pay interest at the rate established pursuant to Health and Safety Code section 25360.1 and to pay all costs incurred by the Department in pursuing collection including attorney's fees.

11.1. Respondent hereby agrees to send at least one employee to the California Compliance School (Modules I through V). Attendance must be completed and the Respondent must submit a Certificate of Satisfactory Completion issued by the California Compliance School to the Department within 185 days of the effective date of this Consent Order. In recognition of this educational investment, the administrative penalty imposed by this Consent Order has been reduced by \$5,000 provided that the employee satisfactorily completes the specified modules and the Department receives the Certificate of Satisfactory Completion within 185 days of the effective date of this Consent Order. If Respondent fails to submit the certificate as required, the administrative penalty of \$5,000.00 is due and payable within 30 days after the 185-day period expires. The 185-day period may be extended by the Department upon a written request demonstrating good cause from Respondent.

OTHER PROVISIONS

12.1. Additional Enforcement Actions: By agreeing to this Consent Order, the Department does not waive the right to take further enforcement actions, except to the extent provided in this Consent Order.

12.2. Penalties for Noncompliance: Failure to comply with the terms of this Consent Order may subject Respondent to civil penalties and/or punitive damages for any costs incurred by the Department or other government agencies as a result of such failure, as provided by Health and Safety Code section 25188 and other applicable provisions of law.

12.3. Parties Bound: This Consent Order shall apply to and be binding upon Respondent and its officers, directors, agents, receivers, trustees, employees, contractors, consultants, successors, and assignees, including but not limited to individuals, partners, and subsidiary and parent corporations, and upon the Department and any successor agency that may have responsibility for and jurisdiction over the subject matter of this Consent Order.

12.4. Effective Date: The effective date of this Consent Order is the date it is signed by the Department.

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12.5. Integration: This agreement constitutes the entire agreement between the parties and may not be amended, supplemented, or modified, except as provided in this agreement.

Dated: September 1, 2010

Original Signed by Craig D. Anderson

Craig D. Anderson, Director of Environmental
Health and Safety
Solar Turbines Incorporated Representative

Dated: September 8, 2010

Original Signed by Alfredo Rios

Alfredo Rios, Supervising Hazardous Substances
Scientist I
Emergency Response and Enforcement Program
Department of Toxic Substances Control